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Water quality move likely won't affect bayou project

By **Sam Blackwell** ~ *Southeast Missourian*
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A budget-cutting move limiting the state's power to veto federal projects affecting wetland, rivers and streams is not expected to change the status of the St. Johns Bayou-New Madrid Floodway project.

The state Department of Natural Resources has eliminated its water-quality certification program to save \$99,000 annually. The state now wants certain decisions about water quality to be made by the federal Environmental Protection Agency, a move that has mystified environmentalists, legislators and even the U.S. Army Corps of Engineers.

"It's a hell of an authority to give up," said Tim Searchinger, a senior attorney for Environmental Defense in Washington.

In November, the DNR refused to issue a water quality certification for the corps' \$85 million St. Johns Bayou project, which is designed to prevent backwater flooding on the Mississippi River in Southeast Missouri. A number of national environmental groups and the U.S. Fish and Wildlife Service had opposed the project.

The corps has appealed the decision to the state Clean Water Commission. Scott Toten, director of the DNR's Water Protection and Soil Conservation Division, said the EPA has been asked to allow the state to keep that appeal under its jurisdiction "because it's already in the process, and the EPA has no comparable process to that."

Loosing control

The state effectively is giving water authority back to the federal government at a time when the Bush administration is narrowing the definition of protected wetlands, making it easier to develop them. The decision means Missouri will have less control over major developments.

Even state Rep. Peter Myers, R-Sikeston, who supports the St. Johns Bayou project, said he would rather the state keep the program instead of handing its authority over to the EPA.

Lloyd Smith, a spokesman for U.S. Rep. Jo Ann Emerson of Cape Girardeau, said the switch to the EPA may work for major projects like St. Johns Bayou, but he said the congresswoman questions its effect on the numerous small projects that still need to be certified.

"The closer we can keep that to home the better," he said.

The state water quality certification program reviewed projects that


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required a permit from the corps for work below the ordinary high water mark. Those projects can include bypass construction and routine ditch maintenance. Some of these now could take longer, Smith said.

In the past, the Department of Natural Resources has used its authority to block or force modifications of projects that required a federal permit. The department took heat for denying certification for the St. Johns Bayou project after finding that it threatened water quality. DNR officials said political pressure was not a factor in the decision.

Toten said the department still hopes to reach a settlement with the corps.

Court action continues

Eddie Belk, deputy for the project management for the Memphis District Corps of Engineers, said the DNR move was surprising, but added, "Our understanding is that it will have no impact on the St. Johns project."

The corps will continue to pursue its appeal, he said. "We don't feel it's going to have those adverse effects."

Because the permit was denied without prejudice, the corps can reapply if it addresses the conditions attached to the denial.

But if the appeal is denied, Toten said the corps' re-application probably would have to go before the EPA for review.

"We're keeping a close eye on it as far as St. Johns in particular is concerned," Belk said.

DNR director Steve Mahfood said the department has little flexibility in saving state money, because only 4 percent of its \$330 million budget comes from general revenue. The rest comes from fees, special taxes and federal grants.

He said the department combed its budget for discretionary programs, especially those he considered "unfunded mandates" from the federal government.

The department lost \$1.3 million in funding for the rest of the fiscal year, including \$99,000 for the three positions in the water-quality certification program. Gov. Bob Holden's administration announced the cuts last week in response to a \$67 million state budget shortfall.

Mahfood said he expects the federal EPA will be able to take over the responsibility of reviewing proposed projects to make sure they comply with the Clean Water Act.

But EPA officials said they were surprised by the development and unsure whether the agency would take on that responsibility. Federal officials said they didn't know of any other state that had given up its water-quality certification authority.

Carla Klein, director of the Ozark Chapter of the Sierra Club, said the state's action sets a bad precedent.

"Missouri, in general, wants to keep all the states' rights it can," she said.

"Turning this one over is troublesome."

The Associated Press contributed to this report.

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